

1 AN ACT concerning employment.

2 Be it enacted by the People of the State of Illinois,  
3 represented in the General Assembly:

4 Section 5. The State Finance Act is amended by adding  
5 Section 5.595 as follows:

6 (30 ILCS 105/5.595 new)

7 Sec. 5.595. The Prevailing Wage Enforcement Fund.

8 Section 10. The Prevailing Wage Act is amended by  
9 changing Sections 2, 4, 5, 6, 9, 10, and 11a and adding  
10 Section 11c as follows:

11 (820 ILCS 130/2) (from Ch. 48, par. 39s-2)

12 Sec. 2. This Act applies to the wages of laborers,  
13 mechanics and other workers employed in any public works, as  
14 hereinafter defined, by any public body and to anyone under  
15 contracts for public works.

16 As used in this Act, unless the context indicates  
17 otherwise:

18 "Public works" means all fixed works constructed for  
19 public use by any public body, other than work done directly  
20 by any public utility company, whether or not done under  
21 public supervision or direction, or paid for wholly or in  
22 part out of public funds. "Public works" as defined herein  
23 includes all projects financed in whole or in part with bonds  
24 issued under the Industrial Project Revenue Bond Act (Article  
25 11, Division 74 of the Illinois Municipal Code), the  
26 Industrial Building Revenue Bond Act, the Illinois  
27 Development Finance Authority Act, the Illinois Sports  
28 Facilities Authority Act, or the Build Illinois Bond Act, and  
29 all projects financed in whole or in part with loans or other

1 funds made available pursuant to the Build Illinois Act.  
 2 "Public works" also includes all projects financed in whole  
 3 or in part with funds from the Fund for Illinois' Future  
 4 under Section 6z-47 of the State Finance Act, funds for  
 5 school construction under Section 5 of the General Obligation  
 6 Bond Act, funds authorized under Section 3 of the School  
 7 Construction Bond Act, funds for school infrastructure under  
 8 Section 6z-45 of the State Finance Act, or funds for  
 9 transportation purposes under Section 4 of the General  
 10 Obligation Bond Act.

11 "Construction" means all work on public works involving  
 12 laborers, workers or mechanics.

13 "Locality" means the county where the physical work upon  
 14 public works is performed, except (1) that if there is not  
 15 available in the county a sufficient number of competent  
 16 skilled laborers, workers and mechanics to construct the  
 17 public works efficiently and properly, "locality" includes  
 18 any other county nearest the one in which the work or  
 19 construction is to be performed and from which such persons  
 20 may be obtained in sufficient numbers to perform the work and  
 21 (2) that, with respect to contracts for highway work with the  
 22 Department of Transportation of this State, "locality" may at  
 23 the discretion of the Secretary of the Department of  
 24 Transportation be construed to include two or more adjacent  
 25 counties from which workers may be accessible for work on  
 26 such construction.

27 "Public body" means the State or any officer, board or  
 28 commission of the State or any political subdivision or  
 29 department thereof, or any institution supported in whole or  
 30 in part by public funds, ~~authorized--by--law--to--construct~~  
 31 ~~public---works---or--to--enter--into--any--contract--for--the~~  
 32 ~~construction-of-public--works,~~ and includes every county,  
 33 city, town, village, township, school district, irrigation,  
 34 utility, reclamation improvement or other district and every

1 other political subdivision, district or municipality of the  
2 state whether such political subdivision, municipality or  
3 district operates under a special charter or not.

4 The terms "general prevailing rate of hourly wages",  
5 "general prevailing rate of wages" or "prevailing rate of  
6 wages" when used in this Act mean the hourly cash wages plus  
7 fringe benefits for training and apprenticeship programs  
8 approved by the U.S. Department of Labor, Bureau of  
9 Apprenticeship and Training, health and welfare, insurance,  
10 vacations and pensions paid generally, in the locality in  
11 which the work is being performed, to employees engaged in  
12 work of a similar character on public works.

13 (Source: P.A. 91-105, eff. 1-1-00; 91-935, eff. 6-1-01;  
14 92-16, eff. 6-28-01.)

15 (820 ILCS 130/4) (from Ch. 48, par. 39s-4)

16 Sec. 4. (a) The public body awarding any contract for  
17 public work or otherwise undertaking any public works, shall  
18 ascertain the general prevailing rate of hourly wages in the  
19 locality in which the work is to be performed, for each craft  
20 or type of worker or mechanic needed to execute the contract,  
21 and where the public body performs the work without letting a  
22 contract therefor, shall ascertain the prevailing rate of  
23 wages on a per hour basis in the locality, and such public  
24 body shall specify in the resolution or ordinance and in the  
25 call for bids for the contract, that the general prevailing  
26 rate of wages in the locality for each craft or type of  
27 worker or mechanic needed to execute the contract or perform  
28 such work, also the general prevailing rate for legal holiday  
29 and overtime work, as ascertained by the public body or by  
30 the Department of Labor shall be paid for each craft or type  
31 of worker needed to execute the contract or to perform such  
32 work, and it shall be mandatory upon the contractor to whom  
33 the contract is awarded and upon any subcontractor under him,

1 and where the public body performs the work, upon the public  
2 body, to pay not less than the specified rates to all  
3 laborers, workers and mechanics employed by them in the  
4 execution of the contract or such work; provided, however,  
5 that if the public body desires that the Department of Labor  
6 ascertain the prevailing rate of wages, it shall notify the  
7 Department of Labor to ascertain the general prevailing rate  
8 of hourly wages for work under contract, or for work  
9 performed by a public body without letting a contract as  
10 required in the locality in which the work is to be  
11 performed, for each craft or type of worker or mechanic  
12 needed to execute the contract or project or work to be  
13 performed. Upon such notification the Department of Labor  
14 shall ascertain such general prevailing rate of wages, and  
15 certify the prevailing wage to such public body. The public  
16 body awarding the contract shall cause to be inserted in the  
17 contract or bid proposal submitted by the bidding contractor  
18 a stipulation to the effect that not less than the prevailing  
19 rate of wages as found by the public body or Department of  
20 Labor or determined by the court on review shall be paid to  
21 all laborers, workers and mechanics performing work under the  
22 contract.

23 (b) It shall also be mandatory upon the contractor to  
24 whom the contract is awarded to insert into each subcontract,  
25 or require in each subcontractor's bid proposal, a written  
26 stipulation to the effect that not less than the prevailing  
27 rate of wages shall be paid to all laborers, workers, and  
28 mechanics performing work under the contract. It shall also  
29 be mandatory upon each subcontractor to cause to be inserted  
30 into each additional tier subcontract, or require in each  
31 tier subcontractor's bid proposal, a stipulation to the  
32 effect that not less than the prevailing rate of wages shall  
33 be paid to all laborers, workers, and mechanics performing  
34 work under the contract. A contractor or subcontractor who

1 fails to comply with this subsection (b) is in violation of  
2 this Act.

3 (c) It shall also require in all such contractor's bonds  
4 that the contractor include such provision as will guarantee  
5 the faithful performance of such prevailing wage clause as  
6 provided by contract. All bid specifications shall list the  
7 specified rates to all laborers, workers and mechanics in the  
8 locality for each craft or type of worker or mechanic needed  
9 to execute the contract.

10 (d) If the Department of Labor revises the prevailing  
11 rate of hourly wages to be paid by the public body, the  
12 revised rate shall apply to such contract, and the public  
13 body shall be responsible to notify the contractor and each  
14 subcontractor, of the revised rate.

15 (e) Two or more investigatory hearings under this  
16 Section on the issue of establishing a new prevailing wage  
17 classification for a particular craft or type of worker shall  
18 be consolidated in a single hearing before the Department.  
19 Such consolidation shall occur whether each separate  
20 investigatory hearing is conducted by a public body or the  
21 Department. The party requesting a consolidated investigatory  
22 hearing shall have the burden of establishing that there is  
23 no existing prevailing wage classification for the particular  
24 craft or type of worker in any of the localities under  
25 consideration.

26 (f) It shall be mandatory upon the contractor or  
27 construction manager to whom a contract for public works is  
28 awarded to post, at a location on the project site of the  
29 public works that is easily accessible to the workers engaged  
30 on the project, the prevailing wage rates for each craft or  
31 type of worker or mechanic needed to execute the contract or  
32 project or work to be performed. A failure to post a  
33 prevailing wage rate as required by this subsection (f) is a  
34 violation of this Act.

1 (Source: P.A. 92-783, eff. 8-6-02.)

2 (820 ILCS 130/5) (from Ch. 48, par. 39s-5)

3 Sec. 5. The contractor and each subcontractor or the  
 4 officer of the public body in charge of the project shall  
 5 make and keep, for a period of not less than 3 years, true  
 6 and accurate records of the name, address, telephone number  
 7 when available, social security number, keep-er-cause-to-be  
 8 kept, an accurate record showing the names and occupation of  
 9 all laborers, workers and mechanics employed by them, in  
 10 connection with said public work. The records shall also show  
 11 the actual hourly wages paid in each pay period to each  
 12 employee and the hours worked each day in each work week by  
 13 each employee. While participating on public works, each  
 14 contractor's payroll records shall include the starting and  
 15 ending times of work for each employee. The, and showing also  
 16 the actual hourly wages paid to each of such persons, which  
 17 record shall be open at all reasonable hours to the  
 18 inspection of the public body awarding the contract, its  
 19 officers and agents, and to the Director of Labor and his  
 20 deputies and agents. Any contractor or subcontractor that  
 21 maintains its principal place of business outside of this  
 22 State shall make the required records or accurate copies of  
 23 those records available within this State at all reasonable  
 24 hours for inspection.

25 (Source: P.A. 92-783, eff. 8-6-02.)

26 (820 ILCS 130/6) (from Ch. 48, par. 39s-6)

27 Sec. 6. Any officer, agent or representative of any  
 28 public body who wilfully violates, or omits to comply with,  
 29 any of the provisions of this Act, and any contractor or  
 30 subcontractor, or agent or representative thereof, doing  
 31 public work as aforesaid, who neglects to keep, or cause to  
 32 be kept, an accurate record of the names, occupation and

1 actual wages paid to each laborer, worker and mechanic  
2 employed by him, in connection with the public work or who  
3 refuses to allow access to same at any reasonable hour to any  
4 person authorized to inspect same under this Act, is guilty  
5 of a Class B misdemeanor. If the Director of Labor or his or  
6 her deputies or agents find that a contractor or  
7 subcontractor has failed to comply with the provisions of  
8 this Act, a request may be made to the public body to  
9 withhold payment to the contractor or subcontractor in the  
10 amount of the alleged underpayment. If agreed to by the  
11 public body, the withholding shall remain in effect until it  
12 is determined that the violation no longer exists.

13 The Department of Labor shall inquire diligently as to  
14 any violation of this Act, shall institute actions for  
15 penalties herein prescribed, and shall enforce generally the  
16 provisions of this Act. The Attorney General shall prosecute  
17 such cases upon complaint by the Department or any interested  
18 person.

19 (Source: P.A. 81-992.)

20 (820 ILCS 130/9) (from Ch. 48, par. 39s-9)

21 Sec. 9. To effectuate the purpose and policy of this Act  
22 each public body shall, during the month of June of each  
23 calendar year, investigate and ascertain the prevailing rate  
24 of wages as defined in this Act and publicly post or keep  
25 available for inspection by any interested party in the main  
26 office of such public body its determination of such  
27 prevailing rate of wage and shall promptly file, no later  
28 than July 15 of each year, a certified copy thereof in the  
29 office of the Secretary of State at Springfield and the  
30 office of the Illinois Department of Labor.

31 The Department of Labor shall during the month of June of  
32 each calendar year, investigate and ascertain the prevailing  
33 rate of wages for each county in the State. If a public body

1 does not investigate and ascertain the prevailing rate of  
2 wages during the month of June as required by the previous  
3 paragraph, then the prevailing rate of wages for that public  
4 body shall be the rate as determined by the Department under  
5 this paragraph for the county in which such public body is  
6 located.

7 Where the Department of Labor ascertains the prevailing  
8 rate of wages, it is the duty of the Department of Labor  
9 within 30 days after receiving a notice from the public body  
10 authorizing the proposed work, to conduct an investigation to  
11 ascertain the prevailing rate of wages as defined in this Act  
12 and such investigation shall be conducted in the locality in  
13 which the work is to be performed. The Department of Labor  
14 shall send a certified copy of its findings to the public  
15 body authorizing the work and keep a record of its findings  
16 available for inspection by any interested party in the  
17 office of the Department of Labor at Springfield.

18 The public body except for the Department of  
19 Transportation with respect to highway contracts shall within  
20 30 days after filing with the Secretary of State, or the  
21 Department of Labor shall within 30 days after filing with  
22 such public body, publish in a newspaper of general  
23 circulation within the area that the determination is  
24 effective, a notice of its determination and shall promptly  
25 mail a copy of its determination to any employer, and to any  
26 association of employers and to any person or association of  
27 employees who have filed their names and addresses,  
28 requesting copies of any determination stating the particular  
29 rates and the particular class of workers whose wages will be  
30 affected by such rates.

31 At any time within 30 ~~15~~ days after the Department of  
32 Labor has published on its official web site a prevailing  
33 wage schedule ~~a-certified-copy-of-the-determination-has-been~~  
34 ~~published-as-herein-provided~~, any person affected thereby may

1 object in writing to the determination or such part thereof  
2 as they may deem objectionable by filing a written notice  
3 with the public body or Department of Labor, whichever has  
4 made such determination, stating the specified grounds of the  
5 objection. It shall thereafter be the duty of the public body  
6 or Department of Labor to set a date for a hearing on the  
7 objection after giving written notice to the objectors at  
8 least 10 days before the date of the hearing and said notice  
9 shall state the time and place of such hearing. Such hearing  
10 by a public body shall be held within 45 20 days after the  
11 objection is filed, and shall not be postponed or reset for a  
12 later date except upon the consent, in writing, of all the  
13 objectors and the public body. If such hearing is not held by  
14 the public body within the time herein specified, the  
15 Department of Labor may, upon request of the objectors,  
16 conduct the hearing on behalf of the public body.

17 The public body or Department of Labor, whichever has  
18 made such determination, is authorized in its discretion to  
19 hear each written objection filed separately or consolidate  
20 for hearing any one or more written objections filed with  
21 them. At such hearing the public body or Department of Labor  
22 shall introduce in evidence the investigation it instituted  
23 which formed the basis of its determination, and the public  
24 body or Department of Labor, or any interested objectors may  
25 thereafter introduce such evidence as is material to the  
26 issue. Thereafter, the public body or Department of Labor,  
27 must rule upon the written objection and make such final  
28 determination as it believes the evidence warrants, and  
29 promptly file a certified copy of its final determination  
30 with such public body and the Secretary of State, and serve a  
31 copy by personal service or registered mail on all parties to  
32 the proceedings. The final determination by the Department of  
33 Labor or a public body shall be rendered within 30 10 days  
34 after the conclusion of the hearing.

1           If proceedings to review judicially the final  
2 determination of the public body or Department of Labor are  
3 not instituted as hereafter provided, such determination  
4 shall be final and binding.

5           The provisions of the Administrative Review Law, and all  
6 amendments and modifications thereof, and the rules adopted  
7 pursuant thereto, shall apply to and govern all proceedings  
8 for the judicial review of final administrative decisions of  
9 any public body or the Department of Labor hereunder. The  
10 term "administrative decision" is defined as in Section 3-101  
11 of the Code of Civil Procedure.

12           Appeals from all final orders and judgments entered by  
13 the court in review of the final administrative decision of  
14 the public body or Department of Labor, may be taken by any  
15 party to the action.

16           Any proceeding in any court affecting a determination of  
17 the Department of Labor or public body shall have priority in  
18 hearing and determination over all other civil proceedings  
19 pending in said court, except election contests.

20           In all reviews or appeals under this Act, it shall be the  
21 duty of the Attorney General to represent the Department of  
22 Labor, and defend its determination. The Attorney General  
23 shall not represent any public body, except the State, in any  
24 such review or appeal.

25           (Source: P.A. 83-201.)

26           (820 ILCS 130/10) (from Ch. 48, par. 39s-10)

27           Sec. 10. The presiding officer of the public body, or  
28 his or her authorized representative and the Director of the  
29 Department of Labor, or his or her authorized representative  
30 may interview workers, administer oaths, take or cause to be  
31 taken the depositions of witnesses, and require by subpoena  
32 the attendance and testimony of witnesses, and the production  
33 of all books, records, and other evidence relative to the

1 matter under investigation or hearing. Such subpoena shall be  
2 signed and issued by such presiding officer or his or her  
3 authorized representative, or the Director or his or her  
4 authorized representative.

5 Upon request by the Director of Labor or his or her  
6 deputies or agents, records shall be copied and submitted for  
7 evidence at no cost to the Department of Labor. Every  
8 employer upon request shall furnish to the Director or his or  
9 her authorized representative, on demand, a sworn statement  
10 of the accuracy of the records. The sworn statement shall be  
11 a statement approved by the Director of Labor and presented  
12 to the contractor by the Director or an authorized  
13 representative of the Director. Any employer who refuses to  
14 furnish a sworn statement of the records is in violation of  
15 this Act.

16 In case of failure of any person to comply with any  
17 subpoena lawfully issued under this section or on the refusal  
18 of any witness to produce evidence or to testify to any  
19 matter regarding which he or she may be lawfully  
20 interrogated, it is the duty of any circuit court, upon  
21 application of such presiding officer or his or her  
22 authorized representative, or the Director or his or her  
23 authorized representative, to compel obedience by proceedings  
24 for contempt, as in the case of disobedience of the  
25 requirements of a subpoena issued by such court or a refusal  
26 to testify therein. Such presiding officer and the Director  
27 may certify to official acts.

28 (Source: P.A. 83-334.)

29 (820 ILCS 130/11a) (from Ch. 48, par. 39s-11a)

30 Sec. 11a. The Director of the Department of Labor shall  
31 publish in the Illinois Register no less often than once each  
32 calendar quarter a list of contractors or subcontractors  
33 found to have disregarded their obligations to employees

1 under this Act. The Department of Labor shall determine the  
2 contractors or subcontractors who, on 2 separate occasions,  
3 have been determined to have violated the provisions of this  
4 Act. Upon such determination the Department shall notify the  
5 violating contractor or subcontractor. Such contractor or  
6 subcontractor shall then have 10 working days to request a  
7 hearing by the Department on the alleged violations. Failure  
8 to respond within the 10 working day period shall result in  
9 automatic and immediate placement and publication on the  
10 list. If the contractor or subcontractor requests a hearing  
11 within the 10 working day period, the Director shall set a  
12 hearing on the alleged violations. Such hearing shall take  
13 place no later than ~~45~~ 30 calendar days after the receipt by  
14 the Department of Labor of the request for a hearing. The  
15 Department of Labor is empowered to promulgate, adopt, amend  
16 and rescind rules and regulations to govern the hearing  
17 procedure. No contract shall be awarded to a contractor or  
18 subcontractor appearing on the list, or to any firm,  
19 corporation, partnership or association in which such  
20 contractor or subcontractor has an interest until 2 years  
21 have elapsed from the date of publication of the list  
22 containing the name of such contractor or subcontractor.  
23 (Source: P.A. 86-693; 86-799; 86-1028.)

24 (820 ILCS 130/11c new)

25 Sec. 11c. Prevailing Wage Enforcement Fund. Twenty  
26 percent of the civil penalties recovered under this Act shall  
27 be paid into the Prevailing Wage Enforcement Fund, a special  
28 fund that is hereby created in the State treasury. Moneys in  
29 the Fund shall be used, subject to appropriation, for  
30 exemplary programs, demonstration projects, and other  
31 activities or purposes related to the enforcement of this  
32 Act.